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New Conditions of Probation

In Texas, one county's experiment in evidence-based probation reform has cut recidivism and revocations, saved money and served as a model for other jurisdictions.

[By Bernice Yeung](#)

When she applied for the job of probation director in [Travis County, Texas](#), Geraldine Nagy was ushered into a seat in the county courthouse law library with its expansive view of downtown Austin. She was surrounded at the table by six judges who would eventually become her superiors, and who began peppering her with questions.

With each answer, Nagy proselytized about her ideas for a department that would rely extensively on research-based procedures that worked to reduce recidivism. “I specifically said my goal would be to implement evidence-based practices, and that I’d really look at Travis County as a model for the rest of the state, and perhaps the rest of the country,” she says. “I was hired, so I saw that they must be in agreement with that vision.”

Within her first year, Nagy had launched what was initially dubbed the Travis County Experiment, an ambitious effort to integrate evidence-based practices into every aspect of the county’s [probation](#) department. Over the past four years, the department has standardized the way it evaluates offenders, tailored supervision to the specific risks they pose and reworked the way that officers interact with them.

In 2009, the department completed the last phase of the experiment — statistical evaluation — and the results were encouraging. The department saw the recidivism rate drop by an average of 17 percent. Revocations for failing to meet the terms of probation were down by 48 percent since 2005. The results led the [Texas Legislative Budget Board](#) to conclude that Travis County would save the state more than \$4.8 million over three years.

At a time when local and state budgets are tight, the county’s reforms to probation, officially called [Travis Community Impact Supervision](#), are being held up as a model. It is producing a curriculum with the [Council of State Governments Justice Center](#) so counties across the country can start their own probation reform experiments. Some of its methods are being adapted for

smaller Texas counties through [Sam Houston State University](#); the probation departments in San Antonio and Houston are slated to integrate aspects of the model.

“For years probation was like medicine from 150 years ago, where you stuck a leech on it and hoped it worked,” says Travis County District Court Judge [Mike Lynch](#). “By monitoring these things and implementing them in a way where you can check things statistically, it just seems like a much more intelligent way of doing business than flying by the seat of our pants, which is what we did for many years when it came to probation.”

Probation diverts people convicted of crime from jail or prison, but it’s not a free pass. It imposes “conditions” on an offender that range from the relatively minor — checking in with the [probation officer](#) once a month or so — to rigorous schedules of curfews, drug treatment programs and community service regimes. Although it makes up a significant piece of the criminal justice puzzle — 4.3 million Americans are on probation — it’s historically been the unloved stepchild of the corrections system because it’s commonly viewed as ineffective and politically risky.

“People don’t understand what probation does,” Nagy acknowledges, “and while generally there’s the perception that we have probation because we can’t put everyone in prison, people aren’t sure that it’s effective enough in changing people’s behavior.”

This misapprehension is likely why, even though probation’s cost is a fraction of incarceration’s — in fact, probationers generally pay for the privilege of being monitored — states have historically dedicated few resources to it. In 2008, only about 12 percent of corrections spending nationwide was directed at probation and parole.

This division of criminal justice resources is beginning to change. “The social-worker types that are interested in rehabilitation have gotten a second wind with the idea that you can do things more scientifically and be more effective. And on the other side, legislators see this as a cost savings — putting people on probation is a lot cheaper than locking them up in the penitentiary,” Judge Lynch says.

As criminal justice agencies grapple with spiraling prison costs, “evidence-based practice” has become the buzz phrase in probation circles. Departments in Oregon, Arizona, New York and other counties in Texas are regarded as having strong research-based efforts, but Travis County stands out for the comprehensiveness of its reform. “Departments often say that they are implementing evidence-based practices when, really, they only implement a couple of strategies or a program,” says [Carey Welebob](#) of the Texas Community Justice Assistance Division, which oversees the state’s probation departments. “But they are not doing it systematically like in Travis County.”

Geraldine Nagy never expected to end up working in the criminal justice system. Born in Idaho and raised in Sacramento, Calif., Nagy married her high school sweetheart, and the young couple attended a local college before enrolling in graduate school in Kansas, where they pursued doctorates in different branches of psychology.

Nagy concentrated on decision-making and organizational psychology, and she set her sights on teaching. While still a grad student, she taught at [Pacific Lutheran University](#) in Washington state when her husband landed what he thought would be a temporary job as a psychologist at a federal prison in the Pacific Northwest.

Although she couldn't initially fathom why her husband was interested in working with offenders, Nagy stumbled into the criminal justice system herself when her husband took a position as head psychologist at a prison 35 miles outside of Austin, Texas. She heard about an opening at the local probation department that involved juvenile programs, and Nagy applied for the job for a purely pragmatic reason: It didn't involve a long commute.

Nagy discovered she liked the work, and when her assignment ended, she threw her hat in the ring for a job as an adult probation officer. "From the beginning, I really felt that there aren't many more opportunities in which you can impact so many people as you can with working with offenders," she says, "because when they're not doing well, the impact they have is so tremendously negative. So if you can turn that around, you can make quite a difference in your local community."

Colleagues describe Nagy as "persuasive," "bright" and a "nice lady with a spine of steel," and she climbed the ranks of the probation department quickly. She was promoted within the department before taking a research position with the Bureau of Prisons, which is where she first became aware of evidence-based research on treatment programs that reduce recidivism.

"I had done a number of things that don't work while thinking that they do work," she says, laughing at the memory of her insistence on using yoga and meditation treatments for probationers. "From that personal experience — oh my God, I would have fought tooth and nail to have continued doing those things. And now the research shows that that doesn't work at all. It made it clear to me that we need to pay attention to evaluation."

When she became the director of training at the state agency that oversees probation in Texas in 1998, she came across the evidence-based research on community corrections conducted by University of Cincinnati criminologist [Edward Latessa](#), and she began inviting Latessa to speak at statewide conferences and meetings. "For the most part, we just muddled along," Nagy says. "So when I heard Dr. Latessa and became aware of some of the things that were being done, I got very interested and devoted to it."

For the past three decades, Edward Latessa has tried to understand which correctional programs cut down on recidivism and why. Latessa's large-scale studies on community corrections programs in Ohio (which are in agreement with decades of research) have found that to be effective, criminal justice interventions need to be customized to the offender and, ultimately, to teach useful skills for avoiding future criminal behavior.

For example, a number of meta-analyses of criminal justice research show that correctional agencies ought to tailor probation to an offender's risk level rather than use a one-size-fits-all approach. "It may seem counterintuitive to focus on those who are higher risk, meaning the people who are most likely to fail," Latessa explains, "but you wouldn't give a healthy person more medical treatment, either." Focusing on low-risk probationers, he says, can do harm, actually increasing the risk they will re-offend.

Beyond risk level, research suggests that corrections personnel need to identify attributes that are associated with criminal behavior, such as antisocial attitudes, substance abuse, and a lack of self-control and problem-solving skills. "Factors such as self-esteem, physical conditioning, understanding one's culture or history and creative abilities will not have much effect on reducing criminal conduct, since these factors have not been found to be highly correlated with criminal behavior," Latessa wrote in a 2006 article titled ["What Works in Reducing Recidivism,"](#) co-authored with the University of Cincinnati's Christopher Lowenkamp.

Correctional agencies are more effective when they teach offenders to cope with anger or sadness, to act less impulsively, to resist peer pressure, to identify risky situations and to refuse to participate in them. "Talk therapy and all that is horseshit," Latessa says. "They don't work because this is skill-based work. You need to practice and rehearse ways of handling a situation. Punishment only tells people what *not* to do; it doesn't tell them what to do."

Travis County adopted these principles by doing away with the subjective, narrative-style diagnostic reports that probation officers produced when community supervision was being considered as a form of punishment. Instead, the department switched to a standardized, research-vetted form used by officers in the newly created Central Diagnosis Unit to rate an offender based on criminal risk factors, including employment history, attitude, arrest history and drug use. Based on this document, the officer can place an offender on a spectrum that ranges from high to low risk; the risk rating is used when making recommendations to the court and district attorney's office about the terms of an offender's supervision.

"I am so pleased that we no longer have cookie-cutter recommendations, and that we recognize that there are some low-risk probationers who don't need a million costly programs, just so that we can say we did [put them in programs]," Travis County District Attorney [Rosemary Lehmberg](#) says.

Once a judge determines the conditions of probation, probation officers reference the diagnostic report. For the lowest-risk offender, for example, an officer would intervene selectively and use rational problem-solving techniques. A higher-level offender who engages in destructive

thinking and antisocial behavior and has low self-esteem would receive intensive casework and zero tolerance for violations, with the creative application of sanctions that could lead all the way up to revocation of probation.

The new strategies for supervising probationers meant that officers would interact and engage with them far more than in the past. When she first arrived at the department, Nagy says, the typical probation meeting lasted less than 15 minutes, and officers asked only cursory questions.

“We needed to change that,” Nagy says, “so we trained them in what is called motivational interviewing, which is an approach that is directed toward problem-solving with the offender and motivating them to internally recognize the need for change.”

To overhaul the diagnostic process, Nagy created a committee that included probation officers, hoping their inclusion would gain support. Even so, the officers were initially less than enthusiastic. “It was very scary because I had done the same thing for so long,” says Laura Hill, a Travis County probation officer. “There were varying opinions in the department. Some people were afraid, and there were others who said, ‘No way,’ and then some were more relaxed about it.”

Hill says that the new system has turned out well for her. “It’s not just yes or no answers,” she says. “It’s working with the offender to buy into what we want them to do, instead of just responding when they don’t.”

Nagy arrived in Austin amid nearly perfect conditions for launching a department overhaul. The department was technologically well equipped, and it had historically been well organized and on budget. The department also benefited from a relatively rare collegial relationship with judges, the district attorney and the defense bar.

Crucially, as the department geared up to make the changes, the Texas Legislature decided to channel \$55.5 million that it would have spent on building new prisons to increased community supervision and substance abuse treatment. The state gave Travis County a \$350,000 grant over three years “to create a blueprint for the state for other probation departments,” the state oversight agency’s Welebob says.

Still, Nagy needed her staff to buy in. She formed staff committees and subcommittees, so everyone in the department could get involved. Nagy also had to convince other members of the criminal justice system to embrace the new system. To ease the way, she convinced a well-regarded policy consultant, Tony Fabelo, who is a past executive director of the Texas Criminal Justice Policy Council, to join the three-year project. “It wasn’t going to work to pretend that I could make this vision, and we could design things that people wouldn’t react to,” she says.

Criminal court magistrate [Leon Grizzard](#), a former criminal defense attorney, says that the research that Nagy showed him is what eventually convinced him to embrace reform. “Everyone knows that statistics are not always reliable, and methodologies can be flawed,” Grizzard says,

“but when there have been a large number of studies and consistency over meta-analyses showing that this is so, that greatly strengthens the proponents’ hand in persuading people.”

Not everyone has embraced the new style of handling probation, of course. “Some judges are keenly aware that they bear the responsibility of protecting the public interest here, in terms of making sure supervision is provided in such a way that it protects public safety,” Grizzard says. “So there is some reluctance to turn loose on that stuff.”

Even Nagy has had her doubts. When an official report showed that probation revocations and recidivism were down, she says, “I think I did one of those Dr. Pepper kicks. I was so excited about that because you always wonder, ‘Have I led people down the wrong path?’”

Brenda Herndon was first placed on probation in Travis County in the early 1990s. She made it through just three years of her eight-year term for drug possession before her probation was revoked when she began using crack cocaine again. “Once again, because I felt that I had been dealt the wrong cards, I resorted back to using,” says Herndon, who had also served two prison terms for drug-related crimes. “I became homeless, jobless, family-less. That’s what I did for a lot of years.”

Herndon says she didn’t initially feel that the probation department was trying to help her. “It was basically talking down on the individual, you know what I’m saying?” she says. “I got no help as far as when I did relapse. I went to him, and I asked for help, and he told me to get my own help.”

Now, Herndon says, her probation officer, Carolyn Gremminger, treats her differently. “This time, I’m fortunate to have Carolyn to help me with some things, like relapse prevention,” Herndon says. “She got me into an inpatient treatment. So that’s when the process started, when I started to view life differently. I was afforded the opportunity to look at me; I could no longer be the victim.

“Had I gone to prison, I would’ve come out with the same mentality as before, because there are no programs to help addicts like me in prison. Now I could go in and talk about anything going on with me, and we work together to find a solution.”

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